

#### REMARKS

This Amendment is submitted in reply to the non-final Office Action mailed on December 12, 2006. No fee is due in connection with this Amendment. The Director is authorized to charge any fees which may be required, or to credit any overpayment to Deposit Account No. 02-1818. If such a withdrawal is made, please indicate the Attorney Docket No. 112701-441 on the account statement.

Claims 1 and 3-11 are pending in this application. In the Office Action, Claims 1 and 3-11 are rejected under 35 U.S.C. §103(a). In response Claims 1 and 11 have been amended, and Claim 9 has been canceled without prejudice or disclaimer. This amendment does not add new matter. In view of the amendment and/or for the reasons set forth below, Applicants respectfully submit that the rejections should be withdrawn.

In the Office Action, Claims 1 and 3-11 are rejected as being unpatentable under 35 U.S.C. §103(a) over either one of U.S. Patent No. 4,094,236 to Holmes et al. ("*Holmes*"); GB 472,428 to Hirschson ("*Hirschson*"); or U.S. Patent No. 1,232,576 to Leich et al. ("*Leich*"). Applicants respectfully disagree with and traverse these rejections for at least the reasons set forth below.

As amended independent Claim 1 recites, in part, an apparatus for preparing and distributing alimentary products formed of a portion of ice-cream or mousse contained between two bakery products, the apparatus comprising at least a rotating plate on which at least two dispensers of bakery products rest. This amendment is supported in the specification at, for example, page 5, lines 1-6. Amended independent Claim 11 recites, in part, an apparatus for preparing and distributing products formed of a portion of ice-cream between two bakery products, the apparatus comprising a rotating plate on which at least two dispensers of bakery products rest. This amendment is supported in the specification at, for example, page 5, lines 1-6.

Applicants respectfully submit that all of the claimed elements are not taught or suggested by the cited references. For example, *Holmes*, *Hirschson* and *Leich* all fail to disclose or suggest an apparatus for preparing and distributing products formed of a portion of ice cream, the apparatus comprising at least a rotating plate on which at least two dispensers of bakery products rest. Instead, *Holmes*, *Hirschson* and *Leich* are all directed toward apparatuses having dispensing mechanisms comprising one supply chamber for housing the bakery products. In

fact, at no place in the disclosures of *Holmes*, *Hirschson* and *Leich* do any of the cited references even mention the use of an apparatus having a rotating plate on which at least two dispensers of bakery products rest. Additionally, *Holmes*, *Hirschson* and *Leich* all fail to recognize the advantages of an apparatus having a rotating plate comprising at least two dispensers of bakery products that allows the consumer to choose among the different bakery products available for preparation of, for example, an ice cream product. This feature allows for greater consumer satisfaction with the resulting end product and would not have been obvious in view of apparatuses comprising one chamber for housing the bakery products.

For at least the reasons discussed above, Applicants respectfully submit that independent Claims 1 and 11 as currently amended are novel, nonobvious and distinguishable from the cited references.

Accordingly, Applicants respectfully request that the rejections under 35 U.S.C. §103(a) of independent Claims 1 and 11 and dependent claims 3-8 and 10 that depend therefrom be withdrawn.

For the foregoing reasons, Applicants respectfully request reconsideration of the above-identified patent application and earnestly solicit an early allowance of same.

Respectfully submitted,

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